unpatentable over US Pat. No. 6,229,478 (hereafter Biacs) in view of Kee et al. or Batchelor et al. In addition, claims 1, 3-28, and 30-43 stand rejected under 35 USC § 103(a) as being unpatentable over US Pat. No. 5,899,957 (hereafter Loomis). Applicant has canceled claims 3, 22-24, 37, and 39 and has amended claims 1, 18, 21, 32, 36, and 38. In view of the amendments and arguments set forth below, Applicant respectfully submits that all remaining claims are in condition for allowance.

Claims 1, 18, 21, 32, and 36.

The Examiner rejected independent claims 1, 18, 21, 32, and 36 as being obvious under 35 USC §103(a) based on Biacs in view of Kee or Batchelor, and separately based on Loomis. The Applicant respectfully traverses this rejection.

According to MPEP §2143, "[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." The Applicants respectfully note that the Examiner has failed to establish at least the third criteria, as Biacs in view of Kee or Batchelor, as well as Loomis, do not teach or suggest at least one of the limitations of claims 1, 18, 21, 32, and 36 as amended.

In particular, the station selection process recited in claims 1, 18, 21, 32, and 36 is novel compared to the station selection process disclosed in the Biacs or Loomis, and as such, this process is not taught or suggested in those references. For this reason the third criteria needed to establish a prima facie case of obviousness has not been met. The Applicant has amended claims 1, 18, 21, 32, and 36 to further clarify this difference.

Unlike Biacs or Loomis, claims 1, 18, 21, 32, and 36 now recite that the base stations are selected "based at least in part on each of the subset of base stations utilizing a set of satellites that is also utilized by a mobile device for which the correction information is being computed." In other words, the claims explicitly require that the selected base stations be using the same set of satellites as the mobile device.

This is different than Biacs which teaches that the reference station "nearest to the rover unit" be used to compute the differential correction data (see col. 12, lines 15-20 of Biacs). Although the Examiner may argue that this is inherently the same as what is recited in amended claims 1, 18, 21, 32, and 36, please note that the difference can be substantial. For instance, as the Examiner himself noted, urban areas may contain tall buildings that block the view of certain satellites. In such a situation, a mobile device may be closest in proximity to a first base station, however, due to the presence of satellite blocking buildings, the mobile station and the first base station may have to utilize different sets of satellites. If that is the case, the system of claims 1, 18, 21, 32, and 36 will locate a second base station that is in view of the same satellites as the mobile device, despite the fact that the second base station is not physically closer to the mobile device than the first base station. This enables more relevant correction information to be delivered to the mobile device. This is contrary to Biacs and Loomis, which teach that the first base station, with its less relevant correction information, be used because it is the closest base station to the mobile device.

The Applicant respectfully notes that because Biacs and Loomis fail to teach or suggest the limitation discussed above, the requirements of MPEP §2143 have not been met. Claims 1, 18, 21, 32, and 36 are therefore nonobvious and the Applicant requests that they be allowed. Furthermore, the Applicant requests that all claims that depend from claims 1, 18, 21, 32, and 36 be allowed as well in accordance with MPEP §2143.03 which states "if an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious."

Claim 21.

The Examiner has also rejected independent claim 21 under 35 USC §112 as not being enabled and as being indefinite. The Applicant has amended claim 21 to overcome this rejection.

Conclusion

The Applicant submits that all claims now pending are in condition for allowance. Such action is earnestly solicited at the earliest possible date. If the Examiner requires further information, Applicant respectfully requests that the Examiner call the undersigned at his earliest convenience to discuss the allowability of the claims. The undersigned can be reached at 512-732-3919. The Applicant requests that the fee for a two month extension of time, as well as any other deficiency in fees, be charged to our Deposit Acct. No. 02-2666.

Respectfully submitted,

Date: May 24, 2005

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CERTIFICATE OF TRANSMISSION VIA FACSIMILE
I hereby certify that this correspondence is being transmitted, via facsimile, to the Commissioner of Patents, Washington, D.C., on the date shown below, and to the proper U.S. Patent and Trademark Office facsimile telephone number. By: _____ Date: May 24, 2005 Gayle Bekish